98TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 98-185
Part 1

VETERANS' EDUCATIONAL ASSISTANCE ACT OF 1983

MAY 16, 1983.—Ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 1400 which on February 10, 1983, was referred jointly to the Committee on Armed Services and the Committee on Veterans' Affairs]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1400) to amend title 38, United States Code, to establish new educational assistance programs for veterans and for members of the Armed Forces, having considered the same, with a quorum present reports favorably thereon by unanimous voice vote with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 9, line 24, strike out "$200" and insert in lieu thereof "$300".

Page 13, line 20, strike out "$100" and insert in lieu thereof "$300".

Page 28, strike out lines 19 and 20 and insert in lieu thereof the following:

(c) The third sentence of section 1673(d)(1) of such title is amended by inserting "30," after "or chapter".

Page 28, line 22, insert "the first place it appears" before the semicolon.

Page 29, strike out lines 10 through 17 and insert in lieu thereof the following:

SEC. 4. No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code, after December 31, 1983.

Page 35, line 8, strike out "§ 22136" and insert in lieu thereof "§ 2136".

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Page 43, beginning on line 11, strike out "section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and insert in lieu thereof "section 1105 of title 31".

Page 48, line 16 strike out "§ 1042" and insert in lieu thereof "§ 1043".

Page 49, line 3, strike out the quotation marks before "(2)".

Page 49, in the matter after line 5, strike out "1042" and insert in lieu thereof "1043".

INTRODUCTION

H.R. 1400 was introduced on February 10, 1983, by Mr. Montgomery and referred jointly to the Committees on Veterans' Affairs and Armed Services.

On March 30, 1983, a field hearing was held on H.R. 1400 in Biloxi, Miss., and on April 12, 1983, hearings were held by the Subcommittee on Education, Training and Employment on H.R. 1400 and three additional proposals to establish a new educational assistance program for veterans and members of the Armed Forces.

H.R. 1400, was recommended to the full committee on May 4, 1983 by unanimous voice vote. On May 12, the full committee approved H.R. 1400 with amendments and ordered the bill reported, as amended.

PURPOSE OF THE BILL

The major purpose of the reported bill is to establish a new educational assistance program to help recruit and retain quality military personnel in all branches of the Armed Services. To a lesser degree and in keeping with previous GI bill programs, the bill would assist veterans in readjusting to civilian life following their military service.

PRINCIPAL FEATURES OF H.R. 1400

The following is a brief summary of the principal features of H.R. 1400, the Veterans' Educational Assistance Act of 1983. The legislation is explained in more detail in the section-by-section analysis of the bill, and subsequent material.

Basic educational assistance.—The bill provides for a basic benefit of $300 a month with a maximum of 36 months of entitlement for military personnel who serve for 3 years on active duty, or 2 years on active duty and 4 years in the Selected Reserve. The benefits would be paid by the Veterans' Administration. Eligible individuals must be high school graduates or have received a high school equivalency certificate by the completion of the qualifying period of service. Academy graduates or Reserve Officer Training Corps (ROTC) scholarship recipients are not eligible.

Kicker.—The basic benefit of $300 a month may be increased up to an additional $400 a month by the Secretary of Defense for individuals in critical or difficult to recruit positions. Kicker benefits would be paid by the Department of Defense.

Supplemental benefits.—The bill provides for entitlement to a supplemental benefit of $300 a month when an individual completes the initial period of service for entitlement to the basic bene-

fit, and serves an additional 5 years on active duty, or 2 years on active duty and 4 years in the Selected Reserve.

Reenlistment kicker.—The bill authorizes the Secretary of Defense to increase the supplemental benefit by up to $300 a month for individuals in critical skills. Benefits would be paid by the Department of Defense.

Transfer to dependents.—The bill authorizes the Secretary of Defense to permit a service member to transfer the earned entitlement to dependents. The transfer of benefits would be at the discretion of the Secretary of Defense for service members in critical skills, as designated by the Secretary of Defense. The service member is required to have completed 10 years of active duty service. The transferred benefits could be used in whole or in part by the dependent while the service member is on active duty, discharged for hardship or disability, or completed 20 years of active duty service.

Leave of absence.—The bill authorizes the Secretaries of Defense and Transportation to grant certain eligible service persons leaves of absences up to 2 years to pursue a program of education. A leave of absence would not be granted an individual unless it is agreed in writing to extend his or her current period of service beyond the completion of the leave of absence on the basis of 2 months for each month of the period of the leave of absence. While on a leave of absence, an individual shall be paid basic pay, but may not receive basic allowance for quarters, subsistence, or any other pay and allowances to which the person would otherwise be entitled for such period.

Educational assistance for the Selected Reserve.—The bill also establishes a new educational assistance program to enhance recruitment and retention of members of the National Guard and Selected Reserve. It would be an entitlement program under which the maximum benefit would be $140 a month for 36 months. To be eligible, an individual must enlist, reenlist, or extend the period of service to 6 years in the Selected Reserve. Again, the program would be limited to high school graduates, or to individuals who have received a high school equivalency certificate by the time the initial period of active duty training is completed. Individuals who have a baccalaureate degree or who are ROTC scholarship recipients are not eligible. Benefits are paid by the Department of Defense.

Accrual funding.—The bill stipulates that the Department of Defense provisions be funded on an accrual basis. Under this approach, DOD would transfer to a DOD educational benefits fund each year a lump sum amount sufficient to pay the future costs of benefits earned by new recruits and service members on active duty or in the Selected Reserve.

Termination of eligibility for current contributory education program for veterans (VEAP) and Selected Reserve.—The bill terminates the right to enroll in the VEAP program and the contributory Selected Reserve educational program, authorized in chapter 106, of title 10, United States Code. Individuals currently participating in these programs and members of the military eligible for the GI bill, would be covered under the new programs, provided they serve the necessary additional time to meet the specified re-

quirements. Individuals eligible for benefits under more than one educational program are required to elect under which program to receive benefits. The bill provides for a limitation of 48 months as the period of assistance which eligible individuals may receive under two or more programs.

BACKGROUND

ACTION IN THE 97TH CONGRESS

At the beginning of the 97th Congress, Mr. Montgomery introduced H.R. 1400 to establish a new educational assistance program for veterans and members of the Armed Forces to enhance the recruitment and retention of quality of military personnel. The bill was jointly referrred to the Committees on Veterans' Affairs and Armed Services.

A total of 19 hearings were held on H.R. 1400. The Armed Services Subcommittee on Personnel and Compensation held 12 hearings on the bill, and the Veterans Affairs' Subcommittee on Education, Training and Employment held 7 hearings on the proposal, including two field hearings. In addition, the two subcommittees held one joint hearing on the measure. These extensive hearings included witnesses representing the uniformed services, DOD, VA, veterans organizations and military associations, the Congressional Budget Office, and the Rand Corp. On May 19, 1981, the Veterans' Affairs Committee reported H.R. 1400 (H. Rept. 97-80, part 1). On May 17, 1982, the Armed Services Committee reported H.R. 1400, with amendments (H. Rept. 97-80, part 2).

A rule was requested for bringing H.R. 1400 to the floor for consideration and vote. However, no rule was granted before the 97th Congress adjourned sine die.

ACTION IN THE 98TH CONGRESS

Four bills have been introduced in the House which propose to establish a new educational program for veterans and members of the military. The four bills are H.R. 1400, introduced by Mr. Montgomery, and H.R. 613, introduced by Mr. Hammerschmidt, both essentially identical to H.R. 1400, 97th Congress, except for the deletion of a cash-out provision, as reported by the House Armed Services Committee (H. Rept. 97-80, parts 2 and 3). H.R. 1944, introduced by Mr. Edgar is essentially identical to H.R. 1400, 97th Congress, as reported by the House Veterans' Affairs Committee (H. Rept. 97-80, part 1). H.R. 64 was introduced by Mr. Bennett.

Two hearings were held on proposals to establish a new educational program for veterans and members of the military. On March 30, 1983, a field hearing on H.R. 1400 was held in Biloxi, Miss. Witnesses included representatives of national veterans organizations, the Air Force Sergeants Association, and active duty enlisted members of the Air Force stationed at Keesler Air Force Base.

On April 12, 1983, a legislative hearing was held on the four proposals. Witnesses included Members of Congress, Department of Defense, and Veterans' Administration officials, the Personnel

Chiefs of the Uniformed Services, and representatives of national veterans organizations and military associations.

On May 4, 1983, the Subcommittee on Education, Training and Employment recommended H.R. 1400 to the full Committee on Veterans' Affairs.

On May 10, 1983, following a careful review of the legislation, the committee ordered H.R. 1400, with amendments, reported to the House.

Previous GI bills

The first national education and training program enacted by Congress was included in the programs of the Servicemen's Readjustment Act of 1944, Public Law 78-346, referred to as the World War II GI bill. Entitlement to education and training benefits provided by the World War II GI bill has been the model for succeeding GI bills for veterans of the Korean and Vietnam era conflict.

All three GI bills have been structured on the premise that only a relatively select few are called upon to leave their homes to wear the uniform during a period of war or national peril. In recognition of this contribution to the national interest, educational benefits were provided by Congress to help citizen soldiers (veterans) readjust to civilian life and catch up with their peers who did not serve.

GI bill benefits were not expected to be needed or used by all eligible veterans. The benefits were not intended as a bonus or to be used as an economic supplement. The readjustment concept was the basis for limiting the time for the use of the benefits, otherwise the veteran was assumed to have readjusted within the period of limitation on the use of the benefits.

Only 50 percent of World War II veterans (7.8 million) used any of their education or training entitlement. For the Korean conflict veterans, only 44 percent (2.4 million) used any educational benefits provided in Public Law 82-550, the Korean GI bill. To date, about 66 percent (over 6 million) of eligible veterans have used education and training benefits provided in the Veterans Readjustment Assistance Act of 1966, Public Law 89-358 (Vietnam era GI bill) with the 66-percent participation rate expected to continue until the program ends on its scheduled termination date of December 31, 1989.

Since the first GI bill was signed by President Franklin D. Roosevelt on June 22, 1944, about 18 million veterans have received education and training assistance under three GI bills.

When the current GI bill was enacted in 1966, it was often referred to as the cold war GI bill. This was because there was no declared war, and the education benefits were made available to over 3 million veterans who had entered on active duty since January 1, 1955. Congress recognized the service of those who wore the uniform during the cold war, which was rapidly escalating in the late 1950's and in the early 1960's, by making them retroactively eligible for GI bill benefits. Young males were subject to the draft during this period.

Another significant development was that for the first time Congress declared, in establishing the GI bill, that one of its purposes was "to enhance and make more attractive service in the Armed Forces of the United States."

Each of the GI bill programs have benefitted by analysis of previous programs. The committee has carefully reviewed and studied the current needs of veterans in their relationship to our society as a whole, as well as their personal needs and desires upon their separation from the Armed Forces—especially veterans who have served only one or two periods of service and have not chosen the military service as a career.

Basis for termination of GI bills

The Congress has authorized a wide range of rights and benefits for those who have borne the battle and served the country in uniform. Most of these benefits are for wartime service. However, there are a number of veterans' benefits that are available for veterans who have served between periods of hostilities. Some of these are compensation for service-connected disabilities, hospital care by the Veterans' Administration, group life insurance, and burial in a national cemetery.

In the case of education and training, the Congress has made it clear that GI bill benefits were for wartime service or its equivalent. Wartime veterans benefits for service in the Armed Forces ended for Vietnam veterans when President Ford issued a proclamation, dated May 5, 1975, stating in part:

> The time has now come to terminate wartime benefits which apply to the new peacetime volunteers. This is consistent with action taken by earlier Presidents in ending wartime benefits after World War II and the Korean conflict.
>
> Today, therefore, I have issued a proclamation terminating on May 7, 1975, the eligibility period for those Vietnam war benefits that the President is empowered by law to end. At the same time, I am submitting appropriate legislation to the Congress requesting the termination of the eligibility period for GI bill education and training benefits, an action that is solely the prerogative of the Congress. . . .

Subsequently, Congress ended education and training assistance under the GI bill for individuals entering military service on or after January 1, 1977, and terminated use of benefits under the Vietnam era GI bill after December 31, 1989 (Public Law 94–502).

In the same manner, the Korean conflict was terminated by Presidential proclamation on February 1, 1955, with a termination date of January 31, 1965, a date beyond which no benefits were permitted under this program. While a World War II veteran was eligible for GI bill assistance if the service on active duty was on or before July 25, 1947, the termination of all benefits was July 25, 1956.

Current post-Vietnam veterans educational assistance programs (VEAP)

A principal reason for ending the Vietnam era GI bill program was the establishment of the All-Volunteer peacetime military force. Notwithstanding, for the first time in history, Congress established an educational assistance program for all who entered on

active duty since January 1, 1977. Unlike previous educational programs, however, the Congress established a contributory program, the veterans educational assistance program (VEAP). One of the questions before Congress in terminating the veterans GI bill was what would be the impact on recruitment if there were no GI bill educational benefits. While the Government does provide assistance under the VEAP program, the program was aimed primarily at those individuals who were willing to make some financial sacrifice for their future education.

Under the VEAP program, a service person may contribute between $25 and $100 per month, up to a maximum of $2,700. For each $1 contributed, the Veterans' Administration, prior to December 31, 1981, and the Department of Defense, since that date, provide an additional $2 up to a maximum of $5,400 from the Government. Thus, the service member may accrue a total educational benefit of $8,100 for a maximum of 36 months of full-time training. In addition, the Secretary of Defense is authorized to contribute to the fund of any participant such contributions he deems necessary, commonly called "kickers", to hard-to-recruit individuals. Currently, in the case of the Army, the kickers are as high as $12,000 for a total educational benefit of $20,100 for those in difficult-to-recruit skills.

VEAP has failed

At the hearings held in both the 97th and 98th Congresses, it was agreed by all, except the top civilians in the Department of Defense, that VEAP has not fulfilled to any degree its goal "to promote and assist the All-Volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces."

Participation rates in the program have been at approximately 25 percent. A large number of service members have dropped out of the program or disenrolled. For example, about one-third of VEAP participants had disenrolled and received a refund of their contributions by the close of fiscal year 1981. The failure of the VEAP program to measure up to expectations is more fully explained in House Report 97-80, parts 1 and 2.

Recruiting and retention problems before recession

The departure point for many witnesses has been the termination of eligibility for Vietnam GI bill benefits for those who entered the service after December 31, 1976. By the end of the 1970's, recruitment and retention rates reached their lowest point. In terminating the draft and establishing an All-Volunteer Force, it was expected that military pay scales would be comparable to the wages being paid in the private sector and that military pay scales would be competitively attractive to civilian wage scales for males reaching military age. Pay scales fell behind and education benefits under VEAP were reduced following the termination of the GI bill. A large percentage of recruits had not completed high school, and contributed to the many problems of the military from training problems to higher attrition rates. Retiring Army Chief of Staff Gen. Edward C. Meyer stated the problem best when he appeared before this committee on March 17, 1981. He described the problem

in the Army when he stated "the biggest single deterrence to the current readiness of the Army is turbulence. It is the turnover that is taking place down in the squads, platoons and companies." General Meyer went on to state: "a GI bill which has transferability to family members provides a solution to assist in resolving all of these serious readiness problems."

During this prerecession period, many highly skilled careerists and key midlevel officers and noncommissioned officers were leaving the service. There were reports that naval ships could not leave port because of the lack of key personnel. In the Army, it was stated, many field units did not have sufficient quality personnel to handle complex military equipment. There were discussions in the Congress that the All-Volunteer Force was not working, and that we should return to the use of the military draft. This was the climate of the military at the time the hearings began on this legislation 2 years ago.

Will problems reoccur when recession ends?

Some of the unanswered questions are, what is the future of the All-Volunteer Force? What will happen to recruitment and retention rates when the economy improves and the unemployment rate decreases? Will there be a reoccurrence of the problems that faced the military before 1980?

The recession of the early 1980's and the high unemployment rates are having a positive effect on recruitment and retention in the Armed Forces. No one questions that high employment rates have been a major factor in the dramatic increase in the number of recruits and reenlistments in the military. During the same period, Congress has improved many other military benefits, such as increased pay scales and inservice programs which have contributed to the achievement of present recruitment and retention goals.

Despite this dramatic improvement, the picture is not entirely rosy for the future. A proposed pay freeze for the military for fiscal year 1984, according to a high Army official, would mean a higher loss rate among high aptitude noncommissioned officers if the military pay falls behind pay for civilian workers. Even with the high quality recruit that the Army states is now entering the service, Army statistics indicate the enlistment rate among categories I, II, and III soldiers has started to decline, with the most noticeable reduction among the category I soldiers. In this same vein, Assistant Secretary of Defense, Dr. Lawrence J. Korb, while opposing this legislation as the spokesman for the administration has noted that the services will have a more difficult time in filling the ranks in the years ahead as the military forces expand while the economy improves and the manpower pool declines.

The testimony and evidence presented to the committee during both the 97th and 98th Congresses indicate that the educational assistance program, contemplated by the reported bill will be of immeasurable assistance to the military in terms of higher quality and retention. An entitlement will be provided for all who serve the basic periods for eligibility. The program is flexible with sufficient discretionary authority for the program to be a potent and effective management tool. All agree that the educational program

proposed in the reported bill will enhance the capability of the military to recruit quality people and retain key personnel.

The reported bill will provide assistance to both the short-term and long-term members of the military. In this regard, Lt. Gen. C. G. Cooper of the U.S. Marine Corps told the committee on April 12, 1983, that one-third of the members of the Marine Corps are 19 years old. It follows that a large number of these 19 year olds will not stay in the Marine Corps for a career. For those who do not choose to remain in the service, the basic benefit will be available and will help those individuals make a quick and successful readjustment to civilian life. For the careerist, the most significant benefit for retention purposes is the transferability provision, which will provide an option for those who stay in the military and are in a critical specialty, to have their benefits transferred to their spouses or children, following 10 years of active duty military service.

An investment in America

While the reported bill is not of the same magnitude as wartime GI bills, it does provide across-the-board entitlement to educational benefits for a large number who will serve only one or two periods of service. The educational benefits will help the veteran obtain an education the veteran may not have been able to afford, and the funds for the education will be an investment in the future of America. A sizeable percentage of veterans are expected to obtain a higher education. It will ease the financial burden of obtaining an advanced education and permit these veterans to make a contribution to our society earlier than they could without the educational assistance. It will provide educational assistance at a time when it is needed most, immediately after service. Many of the veterans trained under the provisions of this bill will be among the leaders of tomorrow. The increased earnings will result in increased income taxes which will partially offset the cost of the bill. Today, military personnel are scattered all over the world and serving under combat conditions in some instances. Today marines are stationed in war-torn Lebanon. Political conditions are volatile in the Near East and in Central America. U.S. Naval ships patrol the Indian Ocean to protect our vital interests in the Persian Gulf.

Summary of the Bill

H.R. 1400 establishes a new educational assistance program, effective October 1, 1983, with the following features:

A basic benefit entitlement with a maximum of up to 36 months of entitlement at $300 a month.

Requires 3 years of active duty or 2 years active duty and 4 years in the Selected Reserve to qualify for the maximum benefit.

Early use permitted after completion of 2 years of active duty.

Limited to those with a high school diploma or equivalency certificate (GED).

Not available to academy graduates or ROTC scholarship recipients.

Paid for by the Veterans' Administration.

Authorizes the Secretary of Defense to increase the amount of the basic entitlement by up to $400 a month for those in critical skills—kicker authority.

A supplemental benefit, in addition to the basic benefit and applicable kickers, of $300 a month (with authority to increase the amount by an additional $300 a month for critical skills) for those who serve for 5 or more years on active duty or an additional 2 years on active duty and 4 years in the Selective Reserve.

Paid for by the Department of Defense.

Permits the transfer of the entitlement to dependents on a discretionary basis exercised by the Secretary of Defense, if the service member completes 10 years of active duty but can only be used while the service member is on active duty, or upon completion of 20 years of active duty.

Paid for by the Department of Defense.

Establishes an educational assistance benefit for members of the Selected Reserve with a maximum of up to 36 months of entitlement at $140 a month.

Requires an individual to enlist, reenlist or extend for a 6 year period in the Selected Reserve.

Limited to those with high school diplomas or the equivalent, but not available to baccalaureate degree holders or ROTC scholarship recipients.

Paid for by the Department of Defense.

Requires the Department of Defense to fund its portion of the program on an accrual basis to insure that sufficient funds are set aside at the time the obligation is incurred to cover the Department's future financial obligations under the program.

Permits individuals currently on active duty or in the Selected Reserve to become eligible for the respective programs as long as they serve the necessary additional time required and meet the other requirements.

DIFFERENCES WITH BILL REPORTED IN THE 97TH CONGRESS

The provisions of the reported bill track the provisions of H.R. 1400, as reported by the Armed Services Committee on May 17, 1982. There are three principal differences in the reported bill. The basic educational assistance will be $300 a month with a maximum of 36 months of entitlement, instead of the $200 that was reported by the Armed Services Committee in the previous Congress. In the same manner, the supplemental educational assistance will be $300 in lieu of $100. The reported bill also deleted a cash-out provision which authorized the Secretary of Defense to permit certain individuals who agree to reenlist for a certain period to receive a lump sum cash payment of 25 percent of their educational entitlement that the service person has earned. These three provisions are explained in the report on this legislation in the 97th Congress, identified as House Report 97-80, parts 2 and 3.

The Department of Defense was the only witness that supported the veterans educational assistance program (VEAP). It should be emphasized that under this program, a service person must con-

tribute $2,700 which will be matched by the Department of Defense at a 2-to-1 ratio or $5,400, for a total of $8,100 of educational benefits. Because VEAP is a contributory voluntary program, as indicated earlier, it has not begun to live up to its expectations. The current participation rate is about 30 percent, with a large number dropping out of the program. The impact of VEAP on recruiting is minimal, and has no effect on retention.

Basic benefits.—Under the reported bill, the basic educational assistance of $300 for 36 months provides $10,800 in education benefits. For those in critical skills or who are difficult to recruit, the Department of Defense has authority to increase the basic benefit amount by up to an additional $400 a month called a "kicker." This also is a management tool which provides flexibility for the Armed Forces to attract high quality and difficult to recruit individuals and will be extremely important in the years ahead as the competition for quality personnel will become more acute with the declining number of eligible males reaching military age.

Supplemental benefit.—The supplemental educational assistance entitlement is $300 a month. In addition, the Secretary of Defense would be authorized to increase the supplemental benefit by up to $300 a month to induce those individuals in critical skills to reenlist and remain in the service.

Transferability provision.—The transferability provision has also been described as a very viable management tool for the military in its efforts to have persons in critical skills remain in the service. Under the authority in the reported bill, the Secretary of Defense may, at his discretion, permit certain individuals in critical skills to transfer the earned educational entitlement to dependents.

EDUCATIONAL ASSISTANCE FOR THE NATIONAL GUARD AND SELECTED RESERVE

Under a current program, members of the Selected Reserve designated by the Secretary of the Service are eligible for an educational assistance program up to $4,000. This program is authorized under chapter 106 of title 10, United State Code. The reported bill would change this program to provide that an individual who agrees to enlist, reenlist or extend for a period of 6 years in the Selected Reserve would be entitled to $140 per month for 36 months. To be eligible the individual must be a high school graduate or have an equivalency certificate by the time the initial period of active duty for training has been completed. Individuals who have completed a baccalaureate degree or who are the recipients of a ROTC scholarship would not be eligible for this program. The benefits earned under this program must be used while the individual is participating in the National Guard or Selected Reserve following the completion of the initial period of active duty for training and 180 days of service in the Selected Reserve. The chapter 106 program has been very successful in attracting quality personnel for the Selected Reserve. However, it is reported that there are still substantial shortages in the Army National Guard and the Selected Reserve. All signs indicate that there will be increased manpower needs in the Selected Reserve in the future. Current shortages will continue to remain a problem for the reserves. Additional

quality personnel are needed for the Selected Reserve to fulfill its mission as a part of the All-Volunteer Force, especially in a wartime situation.

It is believed by the committee that this will be a most effective program to attract quality personnel to fill the ranks of the Selected Reserve since an individual can attend college full time while at the same time participating in the Reserve.

SUMMARY OF FINDINGS IN SUPPORT OF THE BILL

The reported bill has been the subject of extensive hearings during both the 97th and 98th Congresses. The following list is representative of the testimony from witnesses in support of this legislation.

1. The declining birth rate that began in 1960 will impact adversely on the Armed Forces during the late 1980's. The number of males reaching age 18 each year will decline from 2.1 million in 1979 to 1.7 million in 1987, a 20 percent drop.

2. The enactment of a peactime GI bill is one of the most important, least expensive steps that Congress can take to strengthen our national defense. As Maj. Gen. Kenneth L. Peek, Director of Personnel Plans, U.S. Air Force told the Committee on April 12, 1983, " . . . there is no question about it. A new GI bill would help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy, a declining pool of eligible youth to serve their country, and some programmed growth in the Air Force.

"A new GI bill would help us attract and retain the kinds of people that we need in the increasingly complex and high technology Air Force that we have today.

3. Inadequate aptitude among entrants into the Armed Forces places a severe financial burden on our Services. Soldiers with a low aptitude generally take a longer time and require greater resources to train, and they retain their training for a shorter period of time. The weight of the testimony was convincing that a major cause of the decline in recruit aptitude in the late 1970's and early 1980's was the termination of eligibility for GI bill education benefits.

The drawing power of the GI bill was amply demonstrated in the 3 months prior to its termination. On October 20, 1976, the Armed Forces announced that the GI bill would not apply to those enlisting after December 31. Nearly 100,000 individuals joined the uniformed services during that period—approximately double the normal first-term enlistment for the fourth quarter of the year.

4. Because our economy is currently weak, the Armed Services are now experiencing no difficulty in meeting recruiting goals. When the economy improves even modestly, as is projected, the military services will have to compete with local business and industry for the most attractive individuals. Not only can we predict more difficulty in meeting recruitment goals, but we can expect already weak retention rates in many specialties to worsen.

5. According to the Veterans' Administration, 561,189 individuals have elected to participate in the Veterans' Educational Assistance Program (VEAP). Of that number, approximately 60 percent have

suspended their allotments or disenrolled totally. The VEAP program is not living up to its expectation and should be replaced if it is to achieve its purpose of "promoting and assisting the All-Volunteer Military program by attracting qualified men and women to serve in the Armed Forces."

6. Enactment of H.R. 1400 will result in cost savings and cost offsets of other programs that are not reflected in the official cost estimates submitted to the Committee. For example, the educational program contemplated by the enactment of H.R. 1400 could result in cost reductions in the recruitment and reenlistment bonus programs, the expenditures for recruitment advertising, and the military tuition assistance program. Other cost savings would be realized by reducing attrition and in training and retraining. In this regard, Admiral Lando W. Zech, Jr., Deputy Chief of Naval Operations, Department of the Navy, told the Committee, "We believe that the educational bill would provide a significant increase in the quality of people in our Navy. We believe that not only would the Navy benefit, but the country would benefit. We believe that the long-range benefits of an educational bill would indeed have some kind of funding payback, resources that we could use, cost reductions, for example.

"There would be long-term savings, for example, if we bring in more quality people. We see that our training costs could go down. Our recruiting costs could perhaps go down. We see attrition going down. So we see recruiting and training cost benefits. We see attrition improvements. We see, in the long-range, reductions that could be made.

"We also see the possibility of bonuses being reduced in the years ahead with the quality people we estimate we would receive from an educational bill. In summary, we see long-term cost savings."

7. The benefits to be earned in the reported bill will resolve the dilemma faced by active duty servicemembers who were on duty prior to January 1, 1977, and are therefore eligible for educational benefits under the Vietnam era GI bill. A number of active duty personnel emphasized to the Subcommittee at its field hearings that some members were planning to leave the Armed Forces before December 31, 1989, because educational benefits will no longer be available under the Vietnam era GI bill after that date. Individuals eligible for Vietnam era GI bill benefits who stay on active duty for 8 years after September 30, 1983, will at that time be entitled to educational assistance of $600 a month for 36 months. The amount of assistance to which an individual will be entitled in the reported bill ($300 a month basic benefit, or $600 total benefits) will be greater than that available under the GI bill (presently $342 a month for a veteran without dependents). In addition, the individual will have 10 years after discharge or release to use the benefits. This will obviate the need for most, if not all, to leave the military to use their GI bill benefits.

8. The unusually high unemployment and other economic factors contributing to current recruitment and retention climate will change when the economy improves.

9. The structure of H.R. 1400 accomplishes the goals of the legislation—recruit, retain and readjust. The basic benefit recruits, the supplemental benefit recruits and retains, and transferability pro-

vision retains. Representatives of all services, recruiters and high school career counselors have expressed strong support for H.R. 1400 structure.

10. When asked if he preferred an education program or bonuses, a recruiter replied that he would prefer a non-contributory education program over bonuses because a GI bill attracts quality youth.

11. The military recruiters pointed out that a good educational benefit provides access to high schools, counselors and parents, all of whom heavily influence a young person's decision on what they are going to do following high school graduation.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides that the Act would be cited as the "Veterans' Educational Assistance Act of 1983."

Section 2 provides for the insertion of a new chapter 30 in title 38, United States Code, entitled "Chapter 30—All-Volunteer Force Educational Assistance Program" immediately before chapter 31 of title 38, United States Code.

SUBCHAPTER I—PURPOSES; DEFINITIONS

Section 1401—Purposes

Section 1401 sets forth the purposes of the new program which are to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service; to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces through a new educational assistance program based upon service on active duty or combinations of active duty service and reserve service; to aid in recruitment and retention of highly qualified personnel; and to give special emphasis to providing educational assistance to aid in retention of personnel in the Armed Forces.

Section 1402—Definitions

Section 1402 defines various terms including "basic educational assistance," "supplemental educational assistance," "program of education," "Secretary concerned," "Selected Reserve," and "active duty."

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

Section 1411—Basic educational assistance for service on active duty

Section 1411 would establish criteria for eligibility for basic educational assistance based on active duty service. An individual must have received a secondary school diploma (or an equivalency certificate) before completion of the service described below and, after September 30, 1983, must serve at least three years of continuous active duty in the Armed Forces. Eligibility would also be granted where the individual serves in the Armed Forces and is discharged or released from active duty for a service-connected disability; or is discharged for hardship, or has served at least 30

months of active duty and is discharged for the convenience of the Government.

Those eligible for the basic benefit would be permitted to utilize their entitlement after completion of the basic eligibility requirements provided the individual is discharged with an honorable discharge, placed on the retired list, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list. Individuals could also utilize entitlement to basic benefits while they continue on active duty, or are released from active duty for further service in a reserve component after duty service that is characterized by the appropriate Secretary as honorable service.

Graduates of the military academies or individuals who have received a Reserve Officers' Training Corps (ROTC) scholarship would not be eligible for basic educational assistance under this section.

Section 1412—Basic educational assistance entitlement for service in the Selected Reserve

Section 1412 would establish alternative criteria for eligibility for basic educational assistance based on a combination of service on active duty and service in the Selected Reserve. To be eligible, an individual must have received a secondary school diploma (or an equivalency certificate) before completion of the service described below and after September 30, 1983, must serve at least two years of continuous active duty in the Armed Forces characterized as honorable service, and at least four years of continuous service in the Selected Reserve during which the individual must participate satisfactorily.

Those eligible for basic benefits based on this service would be permitted to utilize their entitlement after completing the requisite active duty and reserve duty and are discharged from service with an honorable discharge, are placed on the retired list, or are transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized as honorable service. Individuals could also utilize entitlement to basic benefits if they continue on active duty or in the Selected Reserve.

The requirement of four years of Selected Reserve duty would not be applicable to an individual discharged or released from service in the Selected Reserve for a service-connected disability or for hardship. This requirement would also not apply to an individual who is discharged or released after three and one-half years of reserve service for the convenience of the Government.

Continuity of service in the Selected Reserve would not be considered broken for any period of time the member is not able to locate a unit he or she is eligible to join, or a unit that has a vacancy, or for any other period of time the Secretary concerned determines to be inappropriate for such purposes.

Graduates of the military academies or individuals who have received a Reserve Officers' Training Corps (ROTC) scholarship would not be eligible for basic educational assistance under this section.

Section 1413—Duration of basic educational assistance

Section 1413 provides that individuals would earn entitlement to educational assistance on the basis of 1 month of benefits for each month served on active duty and 1 month of benefits for each 4 months of service in the Selected Reserve (other than any month in which the individual served on active duty). The maximum amount of entitlement an individual could earn would be 36 months. The amount available to the individual would also be limited to the 48-month maximum presently contained in section 1795 of title 38. Thus, if an individual were entitled to 45 months of benefits as the child of a totally and permanently disabled veteran under the provisions of chapter 35 of title 38 and used, for example, 30 months of such entitlement, the maximum such an individual could obtain from the new program would be 18 months of assistance.

Section 1414—Payment of basic educational assistance

Section 1414 provides that the monthly educational assistance allowance payable to the eligible individual would be paid by the Administrator of Veterans' Affairs. The allowance is designed to help meet, in part, the expenses of the individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

Section 1415—Amount of basic educational assistance

Section 1415 would entitle an individual eligible for basic educational assistance to be paid $300 per month for the pursuit of an approved program of education on a full-time basis. The monthly benefit would be appropriately reduced where the program is pursued on a less-than-full-time basis. In addition, the section permits the Secretary concerned to increase the basic monthly benefit for those individuals having a skill or specialty in which there is a critical shortage of personnel by up to an additional $400 per month.

Section 1416—Inservice enrollment in a program of education

Section 1416 would permit an individual who has completed 2 years of active duty, has continued in the Selected Reserve, and is otherwise eligible for basic educational benefits to commence using his or her entitlement after completion of the 2 years of initial active duty service that commences after September 30, 1983.

Section 1421—Supplemental educational assistance for additional service

Section 1421 would establish criteria for eligibility for supplemental educational assistance benefits. To be eligible for the supplemental benefit, the individual must serve five or more consecutive years of active duty in the Armed Forces in addition to the three years of active duty required for entitlement to basic benefits. The eight years must be served without a break in such service. An individual may be permitted to utilize this benefit after completion of the eight years, upon being discharged with an honorable discharge, or being placed on the retired list, or being transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or being placed on the temporary disability retired list. An individual may

also commence using entitlement if he or she continues on active duty without a break in service, or is released from active duty for further service in a reserve component after having served on active duty that has been characterized by the Secretary concerned as honorable service.

In addition, an individual who has completed 4 years of active duty service plus 8 years of duty in the Selected Reserve would be eligible for supplemental educational assistance benefits. After completing the required service, an individual may commence using his or her entitlement upon being discharged from service with an honorable discharge, or being placed on the retired list, or being transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or being placed on the temporary disability retired list. The individual may also use the entitlement if he or she continues on active duty without a break in service or is released from active duty for further service in a reserve component after service on active duty which has been characterized by the Secretary concerned as honorable service.

For the purpose of benefits for reserve service, any period of time during which a reservist is unable to locate a unit of the Selected Reserve he or she is eligible to join, or has a vacancy, or any other period the Secretary concerned considers inappropriate, would not be considered to be a "break in service" for the purpose of determining eligibility for educational assistance. A period of active or reserve duty occurring before the period of duty qualifying for basic assistance would not be counted.

Section 1422—Amount of supplemental educational assistance

Section 1422 would establish that those individuals eligible for supplemental educational assistance shall be paid a monthly benefit in the amount of $300 (in addition to the basic allowance and as increased where applicable) for pursuit of an approved program of education on a full-time basis, or at an appropriately reduced rate if the pursuit is on a less than full-time basis. The Secretary concerned is empowered to increase the monthly amount by up to an additional $300 per month for each individual who has a skill or specialty in which there is a critical shortage.

Section 1423—Payment of supplemental educational assistance under this subchapter

Section 1423 provides that the monthly basic educational assistance allowance of an individual entitled to supplemental educational assistance would be increased by the monthly amount of supplemental educational assistance allowable to such individual.

SUBCHAPTER IV—TRANSFER OF ENTITLEMENT TO DEPENDENTS

Section 1431—Authority for the Secretary concerned to authorize members of the Armed Forces to transfer entitlement to dependents

Section 1431 provides that the Secretary concerned could authorize an individual with a skill or specialty in which there is a shortage and who has served 10 or more continuous years on active duty and is entitled to basic educational assistance, to transfer all or

any part of such member's entitlement to educational assistance to one or more of his or her dependents. Any such transfer of entitlement could be made at any time and could be revoked, in whole or in part, or could be modified at any time.

Section 1432—Regulations

Section 1432 would authorize the Secretary concerned to prescribe regulations for eligibility for the transfer of entitlement and designate critical skills to be eligible for the entitlement. The Administrator of Veterans' Affairs would be authorized to prescribe regulations for administration of transfer of the educational assistance entitlement to dependents. The Administrator would be permitted to place such limits on the changing and revoking of transfers as the Administrator considers necessary to assist in the administration of the programs and may provide that any revocation may be effective only at the end of a semester, quarter, or other unit of instruction during which the dependent is pursuing education.

Section 1433—Status of dependents to whom entitlement is transferred

Section 1433 provides that any entitlement transferred to a dependent would be subject to the same conditions applicable to the individual from whom the entitlement is derived except that such assistance would only be used by a dependent while the member continues on active duty, or upon the death of the member, or if the member is discharged for hardship or a service-connected disability, or upon completion of 20 years of active duty by the member. The period of eligibility of a child to whom assistance is transferred would be determined in accordance with section 1712 of chapter 35 of title 38. This section sets age limits on commencing and completing educational pursuits. If the individual transfers his or her entitlement to 2 or more dependents, the amount of educational assistance shall be divided as the service member specifies, or, in the event of the death of the service member or inability to specify, would be divided based upon regulations issued by the Administrator under section 1422 of this chapter. Assistance would not be paid to an individual who, at the time the benefits would otherwise be paid, is not a child or spouse or surviving spouse of the service member even though the individual was a dependent at the time the election was made to transfer the benefits.

Section 1434—Definition

Section 1434 provides that for the purposes of transferring entitlement the term "dependent" means a child of a service member, or the spouse or surviving spouse of that individual.

SUBCHAPTER V—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

Section 1441—Time limitation for use of eligibility and entitlement

Section 1441 would establish that, with certain exceptions, the period during which an individual entitled to educational assistance could use his or her entitlement expires at the end of the 10-

year period beginning on the date of the individual's last discharge or release from active duty or the date the individual accrues entitlement to benefits, whichever is later. The time limit for a dependent to use entitlement, with certain exceptions, would expire at the end of the 10-year period beginning on the earlier of (1) the date on which the dependent begins to use such entitlement, or (2) the same date that applies to the individual from which the entitlement was transferred. The 10-year period would not run where a service member has been prevented from pursuing a program of education within the 10-year period set above because the individual has not met the nature of discharge requirement before (1) the nature of such discharge or release was changed by appropriate authority or (2) with respect to basic benefits, the Administrator determined, that such discharge or release was under conditions described in section 1411(3) or 1412(3).

The 10-year period would also not run during the period after the individual's last discharge or release from active duty, the individual was detained by a foreign government or power or was hospitalized following such detention. The 10-year period would also not run during any period the individual was prevented from pursuing a program of education because of a physical or mental disability not the result of the individual's own willful misconduct providing the individual applies for an extension within 1 year from (1) the last day of such period or (2) the last day on which the individual was so prevented from pursuing a program, whichever is later. The 10-year period would again start on the first day following the individual's recovery on which it is reasonably feasible for the individual to resume pursuit of the program.

Where the entitlement of a service member or a dependent ends while the individual is enrolled in an educational institution operated on a quarter or semester basis, the period during which the individual may continue to use entitlement shall expire at the end of the semester or quarter. Where the individual entitlement expires while enrolled in an educational institution not regularly operated on a quarter or semester basis, the individual may continue to utilize entitlement to the end of the course or for 12 weeks whichever is lesser.

Section 1442—Limitation on educational assistance for certain individuals

Section 1442 provides that when an individual entitled to educational assistance is pursuing a program of education while on active duty or on less than a half-time basis, the total amount of the assistance payable to the individual could not exceed the established charges for tuition and fees the educational institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or the benefits otherwise payable, whichever is less.

Section 1443—Bar to duplication of educational assistance benefits

Section 1443 provides that a service member or dependent who is also eligible under chapters 106 or 107 of title 10 or under the vocational rehabilitation, GI bill, contributory education, or dependents' programs provided under chapters 31, 32, 34, or 35 of title 38, could

not receive benefits under both programs, but would be required to elect under which program to receive educational assistance. This section also provides that a period of service counted towards repaying an educational loan under section 902 of the Department of Defense Authorization Act, 1981, could not be counted for the purpose of educational entitlement under this new program.

Section 1444—Program administration

Section 1444 provides that the following sections of chapter 34 of title 38 would be applicable to the new program: section 1663 (counseling), 1670 (selection of program), 1671 (approval of applications), 1673 (disapproval of enrollment in certain courses), 1674 (discontinuance for unsatisfactory conduct or progress), 1676 (education outside the United States), 1682(g) (limitations on payment of benefits to convicted felons), and 1683 (approval of courses). Except for sections 1777, 1780(a)(5), 1780(b) and 1786 (relating to correspondence training), 1787 (apprenticeship or other on-the-job training), and 1792 (advisory committee), all of the provisions of subchapters I and II of chapter 36 of title 38 will be applicable to the new program created under the new chapter 30.

This section also provides that the term "eligible veteran" would include an individual who is eligible for educational assistance under this chapter.

A further provision in this section would bar educational assistance to an individual until the Administrator receives (1) from the individual a certification as to the individual's actual attendance during a period and (2) from the educational institution a certification, or an endorsement of the individual's certificate, that such individual was enrolled in and pursuing the program of education during the period. The section also provides that regulations prescribed by the Secretary of Defense shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

Section 1445—Allocation of administration and of program costs

Section 1445 provides that the educational assistance programs established under the new chapter would be administered by the Veterans' Administration (except where otherwise provided). Payments for basic education benefit costs would be made from appropriations made to the Veterans' Administration; payments for supplemental education benefit costs would be made from the Department of Defense Education Benefits Fund or from appropriations made to the Department of Transportation, as appropriate; payments for the basic education entitlement established at a rate in excess of $300 per month established under section 1415(b) of this title would be made from the Department of Defense Education Benefits Fund or from appropriations made to the Department of the Treasury, as appropriate, to the extent of the excess; and payments for entitlement transferred to a dependent and used by the dependent or used by the service member after revoking a transfer would be made from the Department of Defense Education Benefits Fund or from appropriations made to the Department of the Treasury, as appropriate. Those funds for which the Department of Defense is responsible and are paid from the Department of Defense

Education Benefits Fund, and those funds for which the Department of Transportation is responsible shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation would enter into an agreement prescribing the manner in which such transfers shall be carried out. In the case of the Department of Defense Education Benefits Fund, the funds shall be transferred to the Veterans' Administration in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the Treasury.

Section 1446—Reporting requirement

Section 1446 would require the Secretary of Defense and the Administrator to submit separate reports to the Congress at least once every 2 years on the operation of the new program. The Secretary of Defense would be required to include in the report the extent to which benefit levels are adequate to achieve the purposes of the program, whether it is necessary for the purposes of maintaining adequate levels of qualified personnel to continue to make the program available to those not yet in the Armed Forces, and such recommendations for administrative and legislative changes considered appropriate. The Administrator would be required to submit information concerning the level of utilization of educational assistance and expenditures under the chapter and recommendations for administrative and legislative changes considered appropriate. The first report of the Secretary would be required to be submitted not later than April 1, 1985, and that of the Administrator not later than April 1, 1987.

Subsection (b) of section 2 of the bill would amend the table of chapters at the beginning of title 38 and the beginning of part III of such title to add references to the new chapter 30.

Section 3 of the bill contains a number of technical amendments to title 38. The first would amend the vocational rehabilitation program to allow a veteran eligible for such benefits to "cross over" and elect to receive the monetary benefits of the new program and still receive many of the services provided under the vocational rehabilitation program. The second would amend the contributory education program to set a cut off date of October 1, 1983, for eligibility under such program. It would also permit those individuals eligible under the contributory program to elect to disenroll under that program and come within the new program effective the last day of the month and become entitled to assistance under the new program. The third change would amend section 1781 of title 38, the section barring concurrent benefits under certain programs, to include (1) the new chapter 30 education program; (2) the education program provided in section 901 of the Department of Defense Authorization Act, 1981, and (3) the loan forgiveness program established under section 902 of that Act. The final change would amend section 1795 of title 38, the section limiting to 48 months the amount of assistance an individual may receive under two or more VA education programs, to include the new chapter 30 program as well as the education program established by the Department of Defense Authorization Act, 1981.

Section 4 of the bill would bar new enrollments in the contributory education program after December 31, 1983.

Section 5 of the bill would amend chapter 106 of title 10 by substituting for the existing educational assistance program for members of the reserve a new program of educational assistance.

Section 2131—Establishment of educational assistance program

Section 2131 would establish a program of educational assistance for members of the Selected Reserve who agree to remain in the Selected Reserve for a period of not less than six years. The program would be established to encourage membership in units of the Selected Reserve. An individual pursuing a program of education would be entitled to an educational assistance allowance for a maximum of 36 months at $140 per month for full-term participation; $105 per month for three-quarter-time participation; or $70 a month for half-time participation in such a program. Educational assistance would not be provided to a person who has completed a course of instruction required for the award of a baccalaureate degree.

Section 2132—Eligibility for education assistance

Section 2132 provides that after September 30, 1983, an individual who enlists, reenlists, or extends an enlistment or, in the case of an officer, who agrees to serve for an additional period of not less than six years and who has received a high school diploma or the equivalent before completing initial active duty for training would be entitled to educational assistance. Educational assistance would not be provided until the individual has completed the initial period of active duty for training and 180 days of service in the Selected Reserve. Individuals eligible for this program would be provided a written statement summarizing the provisions of this chapter and the substance of sections 2134 and 2135 of this title.

Section 2133—Time limitation for use of entitlement

Section 2133 would establish the period during which an individual may use the entitlement as expiring at the end of the 10-year period beginning on the date the individual becomes entitled to such assistance or the date the person is separated from the Selected Reserve, whichever comes first.

The provisions of sections 1441(f) and 1441(e) (in the case of a disability incurred in or aggravated by service in the Selected Reserve) of title 38, United States Code, would apply to the period of entitlement.

Section 2134—Termination of assistance

Section 2134 would establish that educational assistance would not be provided to a senior Reserve Officers' Training Corps (ROTC) scholarship recipient or to a member who fails to participate satisfactorily in the Selected Reserve.

Section 2135—Penalties for failure to participate satisfactorily

Section 2135 provides that a member of the Selected Reserve who fails to participate satisfactorily in required training of the Selected Reserve during a period that created entitlement to educational

assistance under this chapter would at the option of the Secretary concerned to be ordered to active duty for a period of two years or the remaining period of obligated service under section 2132, whichever is less, or be required to refund to the United States an appropriate amount. The Secretary concerned could waive these requirements or reduce the amount of the refund when the individual's failure to participate satisfactorily is due to reasons beyond the control of the individual. The amount of the refund would be equal to the product of the number of months of obligated service remaining under section 2132(a)(3) divided by the original number of months of the obligation and the total amount of educational assistance provided. The member would also have to pay interest on this amount at the rate equal to the highest rate being paid by the United States for securities having maturities of 90 days or less on the day on which the refund is determined to be due.

Section 2136—Program administration

Section 2136 provides that educational assistance would be provided through the Veterans' Administration under agreement with the Secretary of Defense and Secretary of Transportation and the agreements would ensure prompt transfer of funds to the Veterans' Administration for this purpose. The section also provides that the following sections of chapter 34 of title 38 will be applicable to the new program: section 1663 (counseling), 1670 (selection of program), 1671 (approval of applications), 1673 (disapproval of enrollment in certain courses), 1674 (discontinuance for unsatisfactory conduct or progress), 1676 (education outside the United States), 1682(g) (limitations on payment of benefits to convicted felons), and 1683 (approval of courses). Except for sections 1780(a)(5), 1780(b) and 1786 (relating to correspondence training), 1787(b)(1) (apprenticeship or other on-the-job training), and 1792 (advisory committee), all of the provisions of subchapters I and II of chapter 36 of title 38 will be applicable to the new program created under the new chapter 30.

This section also provides that the term "eligible veteran" would include an individual who is eligible for educational assistance under this chapter.

Section 2137—Required reports

Section 2137 would require the Secretary of Defense to submit to the Congress a report by December 15 of each year concerning the operation of the educational program. The report would include the number of members of the Selected Reserve entitled to receive educational assistance under this chapter during the preceding fiscal year.

Section 2138—Savings provision

Section 2138 provides that a member who has entered into an agreement under this chapter before October 1, 1983, would continue to be eligible for educational assistance in accordance with the terms of the agreement and of this chapter as in effect before that date.

The amendments made by this section would take effect on October 1, 1983, and would apply only to members who qualify for edu-

cational assistance under chapter 106 of title 10, United States Code, as amended, on or after such date.

SECTION 6—ACCRUAL FUNDING OF DEPARTMENT OF DEFENSE LIABILITIES

Section 6 of the bill as amended would establish a fund to be used for the payment of benefits under the educational assistance program. Under this approach, the individual services would be required to request appropriations to support this program at the time the obligation to make payments is incurred rather than at the time the payments would actually be made. These appropriations would be placed in a fund established in the Treasury and invested in public debt securities. Actual payments for educational benefits would be made from the fund.

Subsection (a) of section 6 would amend chapter 101 of title 10, United States Code, by adding a new section 2006 that would authorize a Department of Defense Education Benefit Fund to be established and that would provide the general guidelines for its operation.

Description of new Section 2006 (Clause (1))

Clause (1) of subsection (a)(1) of section 6 of the bill would add the new section at the end of chapter 101 of title 10.

Establishing the fund.—Subsection (a) of the new section 2006 would establish on the books of the Treasury the Department of Defense Education Benefits Fund. The Fund would be administered by the Secretary of the Treasury and would be used to accumulate funds to fully finance education liabilities of the Department of Defense.

Definitions.—Subsection (b) of the new section 2006 would define various terms used throughout the new section.

"Department of Defense educational liabilities" would be defined to mean liabilities of the department for benefits under chapter 30 of title 38 (the new educational assistance program) and under chapter 106 of title 10 (educational assistance for members of the Selected Reserve).

"Normal cost" would be defined to mean the total of the following:

(A) The present value of future benefits for new entrants (individuals entering active duty after October 1, 1983) who become eligible for the kicker to the basic benefit.

(B) The present value of future benefits for new entrants who begin a period of service that would confer eligibility for supplemental educational assistance including kickers.

(C) The present value of future benefits for new entrants who begin a period of service that would confer eligibility to transfer benefits.

(D) The present value of future benefits for individuals who begin a period of service that would confer eligibility to benefits for the Selected Service.

Deposits to the Fund.—Subsection (c) of the new section 2006 would provide for deposits into the Fund. The deposits would constitute the assets of the Fund and would consist of amounts paid

into the Fund by the Secretary of Defense, any amount appropriated to the Fund, and any return on investment of the assets of the Fund.

Transfer from the Fund.—Subsection (d) of the new section 2006 would require the Secretary of the Treasury to transfer amounts necessary to pay benefits under the plan to the Administrator of Veterans' Affairs. The subsection would also prohibit transfers from the Fund for any other purpose except to make authorized investments of the assets of the Fund.

Board of Actuaries.—Subsection (e) of the new section 2006 would establish a Board of Actuaries to report on the actuarial status of the Fund and to furnish its advice and opinions regarding related matters. This subsection would provide the guidelines for the composition, compensation, and operation of the Board.

Original unfunded liability.—Subsection (f) of the new section 2006 would require the Board of Actuaries to determine the present value of future benefits under the plan for members of the armed forces who are on active duty on October 1, 1983. The Board would be required to determine the period of time over which the original unfunded liability should be liquidated and would be required to determine the amortization schedule for such liquidation.

Actuarial valuations.—Subsection (g) of the new section 2006 would require periodic actuarial valuations of the portion of the educational assistance program that would be funded by the Department of Defense. The valuations would be used to establish the normal cost for the next fiscal year and an amortization methodology and schedule for liquidating unfunded liabilities resulting from changes to the plan or actuarial assumptions.

Subsection (g) would also require that the amounts required to fund the normal cost and to liquidate the unfunded liabilities be included in the President's budget.

Payments to the Fund.—Subsection (h) of the new section 2006 would require the Secretary of Defense to pay into the Fund on a monthly basis the actual total normal cost for the preceding month. Subsection (h) would also require annual payments to the Fund to amortize the original unfunded liability or the unfunded liabilities resulting from changes to the provisions of the plan or to actuarial assumptions. The amounts paid into the Fund would be paid from the appropriations available for the pay of members of the Armed Forces under the jurisdiction of the Secretary of a military department.

Investment of assets.—Subsection (i) of the new section 2006 would authorize investment of the Fund in public debt securities. The income from such investment would be returned to the Fund.

Adding New Title (Clause (2))

Clause (2) of subsection (a) of section 6 of the bill would add the title of the new section 2006 to the table of sections at the beginning of chapter 101 of title 10.

Subsection (b) of section 6 of the bill would require the first deposit to be made to the Fund within 3 months after the Board of Actuaries determines the amounts needed for the fiscal year beginning on October 1, 1983. The first payment would be required to

equal the total of the amounts that would have been paid into the Fund from October 1, 1983, until the date of the first payment.

SECTION 7—LEAVE OF ABSENCE

Section 7 of the bill would add a new section 708 to chapter 40 of title 10, United States Code, to permit certain eligible service persons leaves of absence of up to 2 years to pursue programs of education. A leave of absence would not be granted an enlisted individual unless the individual agrees in writing to extend his or her current enlistment beyond the completion of the leave of absence on the basis of 2 months for each month of the period of the leave of absence; and, in the case of an officer, agrees to serve on active duty after completion of the educational leave of absence for a period of 2 months for each month of such leave of absence. A member would not be granted a leave of absence until he or she has completed any extension of enlistment or reenlistment of any period of obligated service incurred by reason of a previous educational leave of absence. While on a leave of absence, a member would be paid basic pay, but would not receive basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the individual would otherwise be entitled for such period. Such a period would be counted for the purposes of computing the amount of the member's basic pay, eligibility for retired pay, and for the purposes of time in grade for promotion purposes, but may not be counted for purposes of completion of the term of enlistment for which the enlisted member earns entitlement to supplemental educational assistance. A leave of absence for educational purposes could be cancelled in the event of war or of national emergency or if the Secretary concerned determines the member is not satisfactorily pursuing the program of education for which the leave was granted.

For the purposes of this new section of title 10, an "eligible member" means an individual who would be eligible for basic educational assistance under the new chapter 30 program and who, in the case of an enlisted member has completed at least one term of enlistment and has reenlisted or, in the case of an officer, has completed the officer's initial period of obligated service on active duty. The table of sections at the beginning of chapter 40 would be amended to incorporate the new section heading.

SECTION 8—PRE-SEPARATION COUNSELING

Section 8 of the measure would amend chapter 53 of title 10 to add a new section 1042 to require that upon discharge or release from active duty, an individual would be counseled as to the educational assistance benefits to which the member would be entitled and concerning the procedures for and advantages of affiliating with the Selected Reserve. A notation signed by the member concerning this counseling would be placed in the service record of each member receiving counseling. The table of sections at the beginning of chapter 53 would be amended to include the new section heading. The amendment made by this section would take effect on October 1, 1983.

OVERSIGHT FINDINGS

The Subcommittee on Oversight and Investigations held an oversight hearing on H.R. 1400, the reported bill, in Biloxi, Miss. on March 30, 1983. The oversight hearing reviewed education programs administered by the Veterans' Administration, and the veterans' educational assistance program (VEAP), for individuals who have entered on active duty in the Armed Forces since January 1, 1977.

No oversight findings have been submitted to the committee by the Committee on Government Operations.

BUDGET STATEMENT

The following cost estimate has been received from the Congressional Budget Office on the reported bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 16, 1983.

Hon. G. V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 1400, the Veterans' Educational Assistance Act of 1983, as amended and ordered reported by the House Committee on Veterans' Affairs, May 10, 1983.

Should the Committee so desire, we would be pleased to provide further detail on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 16, 1983.

1. Bill No.: H.R. 1400.
2. Bill title: Veterans' Educational Assistance Act of 1983.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, May 10, 1983.
4. Bill purpose: To amend title 38, United States Code, to establish new educational assistance program for veterans and for members of the Armed Forces.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1984	1985	1986	1987	1988	1990	1995
Function 700—Payments for H.R. 1400 benefits:							
Required budget authority	0	0	57	75	131	291	502
Estimated outlays	0	0	57	75	131	291	502
Savings from Vietnam-era GI bill:							
Required budget authority	0	0	−12	−6	−3	0	0
Estimated outlays	0	0	−12	−6	−3	0	0
Function 700 impact:							
Required budget authority	0	0	45	69	128	291	502

	1984	1985	1986	1987	1988	1990	1995
Estimated outlays	0	0	45	69	128	291	502
Function 050—Accrual payments to DOD Education Benefits Fund:							
Estimated authorization level	429	425	429	424	435	424	255
Estimated outlays	429	425	429	424	435	424	255
Termination of VEAP:							
Estimated budget authority	0	0	0	−10	−30	−75	−120
Estimated outlays	0	0	0	−10	−30	−75	−120
Termination of reserve tuition program:							
Estimated authorization level	−1	−6	−10	−12	−11	−1	0
Estimated outlays	−1	−6	−10	−12	−11	−1	0
Function 050 Impact:							
Estimated budget authority	428	419	419	402	394	348	135
Estimated outlays	428	419	419	402	394	348	135
DOD Education Benefits Fund—Estimated budget authority:							
Accrual payments from DOD	429	425	429	424	435	424	255
Interest	11	32	54	75	96	138	210
Total	440	457	483	499	531	562	465
Estimated outlays to VA	2	12	29	77	99	142	428
Offset for intragovernmental transfers:							
Estimated budget authority	−429	−425	−429	−424	−435	−424	−255
Estimated outlays	−429	−425	−429	−424	−435	−424	−255
Net budgetary impact:							
Estimated budget authority	439	451	518	546	618	777	847
Estimated outlays	1	6	64	124	186	357	810

Basis of estimate: H.R. 1400 would establish a new program of educational assistance for veterans and active and reserve members of the Armed Forces. Those servicemembers who serve for more than two years after September 30, 1983, would be eligible to use these benefits, providing they were honorably discharged, and had obtained a high school degree but had not graduated from a military academy, nor participated in an ROTC scholarship program. The bill contains three benefit provisions available to all eligible active-duty servicemembers (plus a reserve program), as well as several additional benefits to be offered at the discretion of the Secretary of Defense.

Unrestricted benefit provisions

—A VA-funded provision paying a maximum of 36 months of benefits at $300 monthly for full-time post-secondary attendance by veterans. Would require three consecutive years active duty or two years active and a four-year Selected Reserve commitment after the date of enactment.

—A DoD-funded provision paying an additional $300 monthly (to the $300 VA-funded monthly benefit) for full-time post-secondary attendance by veterans who serve a minimum eight years on active duty after date of enactment.

—A DoD- and VA-funded provision that would allow active-duty servicemembers with at least two years service after the date of enactment to expend earned benefits on a tuition and fee-reimbursable basis for post-secondary attendance while in service.

—A DoD-funded provision paying up to 36 months of benefits at $140 monthly for full-time post-secondary attendance by mem-

bers of the Selected Reserve who agree to enlist, reenlist, or extend for a minimum six-year period. A Reserve servicemember could begin to expend earned benefits once active duty for training has been completed and six months in the Selected Reserve have elapsed.

DoD discretionary provisions

—A DoD-funded "kicker" of up to $400 monthly in addition to the $300 monthly basic earned benefit for new recruits serving in skills designated by the Secretary of Defense.

—A DoD-funded "kicker" up to $300 monthly in addition to the $300 monthly earned basic and $300 monthly earned supplemental benefit (as well as any recruit "kicker") for servicemembers completing eight consecutive years active duty after the date of enactment for service in skills designated by the Secretary of Defense.

—A DoD-funded provision that would allow servicemembers with 10 or more years active service who remain on active duty (or retire) to transfer earned benefits to their spouses or college-age dependents.

Table 1 shows a breakdown of the estimated DoD accrual payments to the DoD educational benefit fund by provision of the bill. Table 2 shows a similar breakdown for VA outlays. Table 3 shows a breakdown of outlays from the fund by recipient group.

TABLE 1.—DOD ACCRUAL PAYMENTS TO DOD EDUCATIONAL BENEFITS FUND BY PROVISION

[By fiscal year, in millions of dollars]

	1984	1985	1986	1987	1988	1990	1995
Unrestricted benefits:							
Supplemental $300 per month benefit after 8 years service	155	161	163	160	167	161	95
Reserve benefit of $140 per month for 6-year commitment	52	38	39	37	36	33	27
In-service tuition reimbursement (DOD portion)	11	12	12	12	12	10	10
Discretionary benefits:							
Recruit kicker of up to $400 per month for service in shortage skills	66	69	70	69	73	70	70
Reenlistment kicker of up to $300 per month for service in shortage skills	19	19	19	20	21	24	4
Transfer of benefits after 10 years service	126	126	126	126	126	126	49
Total payments to fund	429	425	429	424	435	424	255

TABLE 2.—VA BENEFIT OUTLAYS BY PROVISION

[By fiscal year, in millions of dollars]

	1984	1985	1986	1987	1988	1990	1995
Basic benefit of $300 per month	0	0	0	17	71	227	430
In-service tuition reimbursement (VA portion)	0	0	57	58	60	64	72
Total VA outlays	0	0	57	75	131	291	502

TABLE 3.—OUTLAYS FROM DOD EDUCATION BENEFIT FUND BY RECIPIENT GROUP

[By fiscal year, in millions of dollars]

	1984	1985	1986	1987	1988	1990	1995
Veterans	0	0	0	2	11	35	208
Servicemembers, for tuition	0	0	7	8	10	10	17
Dependents (transfer provision)	0	0	0	38	42	55	153
Reserve members	2	12	22	29	36	42	50
Total outlays from fund	2	12	29	77	99	142	428

Modeling methodology

Projecting veteran utilization and costs.—This cost estimate employs a statistical model to estimate benefit utilization by veterans and consequent costs. The model uses historical relationships between a set of economic and policy variables and Vietnam-era GI Bill utilization. Both the likelihood and amount of benefit expenditure by an eligible veteran in any given year have been found to depend on the real level of the monthly benefit (that is, after adjusting for inflation), the level of unemployment in the economy, and the number of years since discharge.

Projecting eligible separations.—An inventory flow model calculates the annual number of separations eligible for each of the provisions available to veterans. This model applies a set of retention rates to the current active duty strength and computes the resulting separations, as well as computing the enlistments required to sustain force levels over time. The model assumes that these enlistment requirements can be met each year. The separations are combined with output from the statistical regression analyses of veterans benefit utilization to estimate the resulting educational benefit costs associated with this flow of separations.

Projecting costs of benefit-transfer rights.—To estimate the cost of allowing servicemembers to transfer their benefits to a spouse and/or dependent, military and civilian survey data are used to calculate the population of eligible spouses and colleage dependents of active-duty and retired military personnel with sufficient service to transfer their benefits. The costing methodology also incorporates a set of demographic-group-specific college attendance rates to estimate the number of eligible beneficiaries expected to utilize the servicemember's benefit.

Projecting costs of in-service tuition reimbursement.—Tuition reimbursement costs are calculated using historical data on in-service use and costs of the Vietnam-era GI Bill. In the past about 6 percent of those eligible used in-service benefits. The average cost per participant in fiscal year 1983 was estimated to be $835. This per capita cost figure was increased annually because tuition costs will increase with the rate of inflation. The total cost was adjusted to account for those servicemembers who would be eligible to use current law Chapter 34 (title 38, U.S.C.) benefits and for those who would participate in the Department of Defense's in-service tuition reimbursement program.

Projecting costs for Selected Reseve benefits.—CBO, assuming current Selected Reserve force levels, developed projections of the

number of non-prior-service high school graduates enlisting in the Selected Reserve and of reenlistments and prior-service enlistments. It was assumed that Selected Reserve members would expend their benefits in a pattern consistent with Vietnam-era veteran benefit utilization. The actual rates were further adjusted based upon current census survey data on post-secondary school attendance rates for males within the same age group. Since a substantial number of new entrants to the reserves have prior active-duty service, it was assumed that most of these would earn and choose to expend active-duty benefits under H.R. 1400. The bill also specifies that members of the Selected Reserve who have attained a baccalaureate degree would be prohibited from expending benefits under this program. Thus, reserve officers would be excluded from participation.

Assumptions used to determine eligibility for DoD discretionary provisions

Recruit kickers.—In estimating the cost of kickers augmenting the basic earned benefit, CBO assumed that DoD would offer the maximum $400 monthly addition to only Army high-quality enlisted recruits serving in critical skills. This criterion replicates the current eligibility policy for Ultra-VEAP benefits.

Eligibility for reelistment kickers.—CBO assumed that DoD would permit 25 percent of those enlisted servicemembers who complete at least eight consecutive years of active duty after the date of enactment of this bill to receive the maximum $300 a month kicker. This population includes 25 percent of those who had previously received the recruit kicker and subsequently completed eight years of active duty.

Eligibility to transfer earned benefits.—In projecting the population of eligible transferors, CBO assumed that DoD would permit those enlisted servicemembers with ten years or more of active service who would qualify to receive a reenlistment kicker to transfer any earned benefits to a spouse or college-age dependent, provided they remain on active duty or have retired. CBO also assumed that DoD would permit 25 percent of officers with ten years of service to transfer their earned benefit.

Converting DoD funded provisions to an accrual basis

H.R. 1400 stipulates that, while VA provisions would be funded on a year-to-year basis, DoD would fund its provisions on an accrual basis. Under this approach, DoD would transfer to the DoD Education Benefits Fund each year a lump sum amount sufficient to pay the future costs of benefits earned by new recruits and servicemembers currently on active duty or in the Selected Reserve. CBO estimated charges for post-1983 recruits for each DoD-funded provision, and assumed these charges to be assessed when the beneficiary is designated as qualified to receive that benefit. The estimates incorporated CBO-projected retention rates and utilization rates for the earned benefits, and assumed a 5 percent long-term nominal interest rate. Also included in the accrual charges is an amortization amount to pay off the unfunded liability for those servicemembers currently on active duty who would earn benefits under the provisions of this bill. CBO estimates that the present value of the un-

funded liability when discounted at 5 percent amounts to $1,686 million in fiscal year 1984. This was amortized over a ten-year period, beginning with fiscal year 1984.

Termination of the veterans' educational assistance program (VEAP)

Enactment of this bill would terminate the contributory VEAP for new recruits but would allow those servicemembers and veterans who have contributed to the program to continue. Under VEAP, an eligible servicemember can contribute up to $2,700 and receive a two-for-one matching contribution by DoD. In addition, the DoD can contribute additional funds for service in selected skills by qualified personnel. The Army's Ultra-VEAP currently provides up to a $12,000 additional "kicker" benefit to the servicemember's fund. As a veteran, the servicemember can withdraw his contribution, as well as funds contributed by the DoD (including any "kickers") in equal installments for training at post-secondary institutions. (Although the program is funded by DoD, it is administered by VA. Thus, outlays for withdrawals for training occur in function 700.) CBO assumed that those service-members currently participating in Ultra-VEAP would continue. By 1987 CBO assumed no servicemembers would be contributing to VEAP since they would become vested in H.R. 1400 benefits.

Uncertainty surrounding the cost estimate

This bill contains a number of complex provisions. Estimating the costs of these provisions entails numerous assumptions about DoD's decisions in implementing the program and about servicemembers' and veterans' behavior in response to the availability of benefits. Moreover, any alteration in the assumptions concerning one provision of the bill will have feed-back effects on the estimated utilization and costs of other provisions in the bill.

Finally, the bill makes no provision to raise benefit levels in response to inflation. Thus, CBO's estimate assumes constant nominal benefit levels throughout the projection period. Should the Congress choose to raise benefit levels in the future to prevent their real value from being eroded by inflation, the 1995 costs of this bill are likely to be more than double that shown in this estimate.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of State and local governments would not be directly affected by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Ed Sephard (226–2900) and Kelly Lukins (226–2820).

10. Estimate approved by: C. G. Nuckols (For James L. Blum, Assistant Director for Budget Analysis).

Cost

The bill provides that all administrative costs of the educational assistance program established by this bill will be paid by the Veterans' Administration, who will administer the program. In addi-

tion, the cost of the basic educational assistance payments shall be paid by the Veterans' Administration, with all other costs to be paid by the Department of Defense and Transportation.

There will be no costs for the Veterans' Administration in fiscal years 1984 and 1985.

The committee agrees with the estimate of the Congressional Budget Office. However, there is an unusual disparity between budget authority and outlays in the first 12 years which is the result of the requirement of the bill to fund the program on an accrual basis.

Inflationary Impact Statement

The reported bill will have no inflationary impact in fiscal year 1984.

Agency Report

The following report expresses the views of the Veterans' Administration and the Department of Defense on H.R. 1400, as introduced.

Veterans' Administration,
Office of the Administrator of Veterans Affairs,
Washington, D.C., May 13, 1983.

Hon. G. V. (Sonny) Montgomery,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This will respond to your request for the views of the Veterans' Administration on H.R. 1400, 98th Congress, a bill cited as the "Veterans' Educational Assistance Act of 1983."

This measure is, with one exception, identical with H.R. 1400, 97th Congress, as reported to the House on May 17, 1982, by the House Committee on Armed Services. This exception, contained in the earlier measure, but not this year's version, is known as the "cash out" provision. It would permit a serviceperson, upon reenlistment at the end of a period establishing entitlement to educational assistance, to receive a lump sum payment up to 25 percent of the value of the educational entitlement accumulated at that time.

The measure proposes a new noncontributory educational assistance program for those persons who enter military service after September 30, 1983, and who perform specified periods of active duty as well as service in the Selected Reserve.

Three primary benefits programs would be provided under H.R. 1400. First, individuals who, after September 30, 1983, serve on active duty for a period of 3 years, or who serve on active duty for a period of 2 years plus 4 years in the Selected Reserve, would be eligible for basic educational benefits. An eligible participant would be entitled to 1 month of educational assistance benefits for each month of active duty served, and 1 month of educational assistance benefits for each 4 months served in the Selected Reserve.

Benefits would be paid to the individual at the rate of $200 per month for full-time pursuit of a program of education. Benefits could be paid at a reduced level for less than full-time pursuit and,

in addition, some individuals could be paid up to $400 more per month under certain conditions.

Second, individuals who, after September 30, 1983, serve for 5 or more additional consecutive years on active duty, or who serve 4 years on active duty plus 8 consecutive years in the Selected Reserve, may be entitled to supplemental educational assistance benefits at the rate of $100 per month in addition to the $200 monthly payment granted under the basic program. The Secretary of Defense could increase the individual's supplemental benefits up to $300 per month for individuals serving in critical skills identified by the Secretary.

Third, if the servicemember has served 10 or more continuous years on active duty, the Secretary may permit certain individuals with critical skills to transfer their accured educational entitlement to a dependent. Transfers would be subject to certain conditions and limitations.

Graduates of the military academies or individuals who have received a Reserve Officers' Training Corps (ROTC) scholarship would not be eligible for educational assistance.

Individuals would, generally, have 10 years from their last discharge or release from service within which to utilize their benefits although, in some cases, entitlement may be used while the individual is still in the Armed Forces.

These programs would be administered by the Veterans Administration. The cost of the basic entitlements would be paid from Veterans Administration appropriations while all other costs would be funded from Department of Defense appropriations, or the Department of Transportation in the case of Coast Guard participants.

In addition to the three primary programs, H.R. 1400 incorporates a number of other provisions including (1) a revised educational assistance program for members of the Selected Reserve, (2) an educational leave of absence program for members of the Armed Forces, (3) a requirement that the Department of Defense accrue the funds needed to finance these education programs, (4) a requirement for the establishment of a Department of Defense Education Benefits Fund into which the funds would be accumulated, and (5) a provision to terminate the VEAP program upon commencement of the new education program.

The Department of Defense has stated that all military services are presently enjoying success in both recruitment and retention. Officials of DOD have stated that the present education program is working and it should be continued. The Administration believes that consideration of any new education benefits legislation, as well as the specifics for any new education program, is unwarranted at this time.

The Veterans Administration favors this position. We do not believe that the present is the time for the enactment of any new GI Bill program. We also believe that any new program would have to be tailored to the needs of the Armed Forces at the time it is enacted. Thus, it would be inappropriate to add a new program to the statute books at this time.

It is estimated that enactment of H.R. 1400 would result in additional direct benefits cost to the Veterans Administration of $200,000 in Fiscal Year 1984 and in estimated additional direct

benefits cost over the first 5 fiscal years of $130.1 million. Enactment of the measure, it is estimated, would also result in a small amount of additional administrative costs (under $100,000) in Fiscal Year 1984 and in additional administrative costs over the first 5 fiscal years of $5.3 million.

Although VA's portion of the cost of the bill will result in total outlays of only $130 million over the first 5 years of the program, annual outlays in the longer term will become much larger as more members become eligible to use the benefits. The Department of Defense's portion of the cost will vary significantly depending upon how intensively the discretionary benefits are used. Outlays over the first 5 years will probably be less than $200 million, but the annual accrual cost for the Department of Defense will be on the order of $300 million to $600 million per year.

For the reasons set forth in this report, the Veterans Administration does not favor enactment of H.R. 1400 at this time.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress, and that enactment of H.R. 1400 would not be consistent with the Administration's objectives.

Sincerely,

EVERETT ALVAREZ, Jr.,
Deputy Administrator
(For Harry N. Walters, Administrator).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

VETERANS' BENEFITS

PART		Sec.
I.	GENERAL PROVISIONS	101
II.	GENERAL BENEFITS	301
III.	READJUSTMENT AND RELATED BENEFITS	1501
IV.	GENERAL ADMINISTRATIVE PROVISIONS	3001
V.	BOARDS AND DEPARTMENTS	4001
VI.	ACQUISITION AND DISPOSITION OF PROPERTY	5001

PART I. GENERAL PROVISIONS

CHAPTER		Sec.
1.	General	101
3.	Veterans' Administration; Officers and Employees	201

PART II. GENERAL BENEFITS

CHAPTER		Sec.
11.	Compensation for Service-Connected Disability or Death	301
13.	Dependency and Indemnity Compensation for Service-Connected Deaths	401
15.	Pension for Non-Service-Connected Disability or Death or for Service	501
17.	Hospital, Nursing Home, Domiciliary, and Medical Care	601
19.	Insurance	701
21.	Specially Adapted Housing for Disabled Veterans	801
23.	Burial Benefits	901

PART III. READJUSTMENT AND RELATED BENEFITS

CHAPTER		Sec.
30.	*All-Volunteer Force Educational Assistance Program*	*1401*
31.	Training and Rehabilitation for Veterans with Service-Connected Disabilities	1500

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CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER I—PURPOSES; DEFINITIONS

Sec.
1401. Purposes.
1402. Definitions.

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

1411. Basic educational assistance entitlement for service on active duty.
1412. Basic educational assistance entitlement for service in the Selected Reserve.
1413. Duration of basic educational assistance.
1414. Payment of basic educational assistance.
1415. Amount of basic educational assistance.
1416. Inservice enrollment in a program of education.

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

1421. Supplemental educational assistance for additional service.
1422. Amount of supplemental educational assistance.
1423. Payment of supplemental educational assistance under this chapter

SUBCHAPTER IV—AUTHORITY TO ALLOW TRANSFER OF ENTITLEMENT TO DEPENDENTS

1431. Authority to allow members of the Armed Forces with critical specialties to transfer entitlement to dependents.
1432. Regulations.
1433. Status of dependents to whom entitlement is transferred.
1434. Definition.

SUBCHAPTER V—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

1441. Time limitation for use of eligibility and entitlement.
1442. Limitation on educational assistance for certain individuals.
1443. Bar to duplication of educational assistance benefits.
1444. Program administration.
1445. Allocation of administration and of program costs.
1446. Reporting requirement.

Subchapter I—Purposes; Definitions

§ 1401. Purposes

The purposes of this chapter are—

(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

(2) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces; and

(3) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces.

§ 1402. Definitions

For the purposes of this chapter—

(1) The term "basic educational assistance" means educational assistance provided under subchapter II of this chapter.

(2) The term "supplemental educational assistance" means educational assistance provided under subchapter III of this chapter.

(3) The term "program of education" has the meaning given such term in section 1652(b) of this title.

(4) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army

National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10.

(5) The term "Secretary concerned" means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(6) The term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

Subchapter II—Basic Educational Assistance

§ 1411. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (b) of this section, each individual who—

(1) after September 30, 1983—

(A) serves at least three years of continuous active duty in the Armed Forces; or

(B) serves in the Armed Forces and (notwithstanding section 3103A of this title) is discharged or released from active duty for a service-connected disability, for hardship, or, in the case of an individual who completed not less than thirty months of active duty, for the convenience of the Government;

(2) before completion of the service described in clause (1) of this section, has received a secondary school diploma (or an equivalency certificate); and

(3) after completion of the service described in clause (1) of this section—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of

a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (c), each individual who—

(1) after September 30, 1983—

(A) serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

(B) subject to subsection (b) of this section and after completion of the service on active duty described in clause (A) of this paragraph, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

(2) before completion of the service described in clause (1) of this section, has received a secondary school diploma (or an equivalency certificate); and

(3) after completion of the service described in clause (1) of this section—

(A) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

(B) continues on active duty or in the Selected Reserve;

is entitled to basic educational assistance under this chapter.

(b)(1) The requirement of four years of service under clause (1)(B) of subsection (a) of this section is not applicable to an individual who is discharged or released from service in the Selected Reserve for a service-connected disability, for hardship, or (in the case of an individual discharged or released after three and one-half years of service) for the convenience of the Government.

(2) Continuity of service of a member in the Selected Reserve for purposes of such clause shall not be considered to be broken—

(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that he is eligible to join or that has a vacancy; or

(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

§ 1413. Duration of basic educational assistance

(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve (other than any month in which the individual served on active duty).

(b) No individual may receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

§ 1414. Payment of basic educational assistance

The Administrator shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

§ 1415. Amount of basic educational assistance

(a) Subject to section 1442 of this title and except as otherwise provided in subsection (b) of this section, a basic educational assistance allowance under this subchapter shall be paid—

(1) at the monthly rate of $200 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

(b) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary considers appropriate, but any such increase may not exceed $400 per month.

§ 1416. Inservice enrollment in a program of education

A member of the Armed Forces who has completed at least two years of service on active duty after September 30, 1983, has continued on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title), and who but for section 1411(a)(1) or 1412(a)(1) of this title would be eligible for basic educational assistance may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1) or 1412(a)(1) of this title.

Subchapter III—Supplemental Educational Assistance

§ 1421. Supplemental educational assistance for additional service

(a) An individual eligible for basic educational assistance under section 1411 of this title who—

(1) has served five or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1411(a)(1) of this title without a break in such service; and

(2) after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty without a break in service; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to supplemental educational assistance under this subchapter.

(b) An individual eligible for basic educational assistance under section 1412 of this title who—

(1) has served two or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1412(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted under such section without a break in service; and

(2) after completion of the service described in clause (1) of this subsection—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

(B) continues on active duty or in the Selected Reserve;

is entitled to supplemental educational assistance under this subchapter.

(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that he is eligible to join or that has a vacancy; or

(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned

qualifies for basic educational assistance may not be counted for purposes of this section.

§ 1422. Amount of supplemental educational assistance

(a) Subject to section 1442 of this title and except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

(1) at a monthly rate of $100 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

(b) In the case of a member of the Armed Forces entitled to supplemental educational assistance who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary considers appropriate, but any such increase may not exceed $300 per month.

§ 1423. Payment of supplemental educational assistance under this subchapter

The Administrator shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

Subchapter IV—Transfer of Entitlement to Dependents

§ 1431. Authority to authorize members of the Armed Forces with critical specialties to transfer entitlement to dependents

(a) Under regulations prescribed under section 1432(a) of this title, the Secretary concerned may authorize a member of an Armed Force who—

(1) has served ten or more continuous years on active duty;

(2) has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel; and

(3) is entitled to basic educational assistance,

to transfer to one or more of such member's dependents all or any part of such member's entitlement to educational assistance under this chapter.

(b) Subject to regulations prescribed under section 1432(b) of this title, a transfer of entitlement under this section, once authorized, may be made at any time and may be revoked, in whole or in part, or may be modified at any time.

§ 1432. Regulations

(a) The Secretary concerned shall prescribe regulations for the establishment of eligibility of members to transfer entitlement under

this subchapter, and any transfer of entitlement under this subchapter shall be made in accordance with such regulations. In prescribing such regulations, the Secretary of Defense—

(1) shall designate the skills or specialties in which there is a critical shortage of personnel which qualify a member for consideration for authorization to transfer entitlement under this section; and

(2) shall establish such other terms and conditions for authorization to transfer entitlement as the Secretary considers appropriate considering the needs of the service.

(b) The Administrator shall prescribe regulations for the administration of the transfer of educational assistance entitlement under this subchapter by members authorized under the regulations prescribed pursuant to subsection (a) of this section to be eligible to make such a transfer and for the provision of such assistance to the dependents to whom such entitlement is transferred. In prescribing such regulations, the Administrator may place such limits upon the changing and revoking of transfers of entitlement as the Administrator considers necessary for efficient administration and may provide for any such revocation to be effective at the end of any semester, quarter, or other unit of instruction in which a dependent to whom entitlement had been transferred is engaged in at the time of the revocation.

§ 1433. Status of dependents to whom entitlement is transferred

(a)(1) A dependent to whom entitlement is transferred under this subchapter is entitled to educational assistance under this chapter in the same manner and under the same terms and conditions as the individual from whom the entitlement was transferred would be entitled, except that such assistance may only be provided while the individual from whom the entitlement was transferred continues on active duty or upon the death, discharge for hardship or service-connected disability, or completion of twenty years of active duty by the individual.

(2) The period of eligibility of a child to whom educational assistance is transferred under this subchapter shall be determined in accordance with section 1712(a) of this title.

(b) If an individual transfers entitlement under this section to two or more dependents, the educational assistance payable under this chapter shall be divided (1) in such manner as the individual specifies, or (2) if the individual is deceased or is otherwise unable to specify the manner in which the assistance shall be divided, as determined under regulations prescribed under section 1432 of this title.

(c) Assistance may not be paid under this chapter to an individual who at the time the benefits would otherwise be paid is not a child or spouse or surviving spouse of the individual who transferred the benefits, notwithstanding that the individual was a dependent at the time the election was made to transfer the benefits.

§ 1434. Definition

For the purposes of this subchapter, the term "dependent" means—

(1) a child of an individual; and

(2) the spouse or surviving spouse of an individual.

Subchapter V—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

§ 1441. Time limitation for use of eligibility and entitlement

(a) Except as provided in subsections (c) through (e) of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the ten-year period beginning on (1) the date of such individual's last discharge or release from active duty, or, (2) the date of the accrual of such entitlement, whichever is later.

(b) Except as provided in subsection (e) of this section, the period during which a dependent with entitlement transferred under section 1431 of this title may use such entitlement expires at the end of the ten-year period beginning on the earlier of—

(1) the date on which the dependent begins to use such entitlement; or

(2) the same date that applies to the individual from whom the entitlement was transferred.

(c) In the case of any eligible individual who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the ten-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of such subchapter before (1) the nature of such discharge or release was changed by appropriate authority, or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title, such ten-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

(d) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active duty, was detained by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Veterans' Administration medical facility.

(e) In the case of an individual eligible for educational assistance under this chapter (including a dependent to whom entitlement under this chapter has been transferred pursuant to section 1431 of this title)—

(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the ten-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

(2) who applies for an extension of such ten-year period within one year after (A) the last day of such period, or (B) the

last day on which such individual was so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(f)(1) If an individual eligible for educational assistance under this chapter (including an individual to whom entitlement has been transferred) is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(2) If an individual eligible for educational assistance under this chapter (including an individual to whom entitlement has been transferred) is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire after a major of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

§ 1442. Limitation on educational assistance for certain individuals

(a) In the case of an individual entitled to educational assistance under this chapter (including an individual to whom such entitlement has been transferred) who is pursuing a program of education—

(1) while on active duty; or

(2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the lesser of (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, or (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

§ 1443. Bar to duplication of educational assistance benefits

(a) An individual entitled to educational assistance under a program established by this chapter (including an individual to whom such entitlement has been transferred) who is also eligible for educational assistance under a program under chapter 31, 32, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

§ 1444. Program administration

(a) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran', as used in those provisions, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

(b) An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

(1) from such individual a certification as to such individual's actual attendance during such period; and

(2) from the educational institution a certification, or an endorsement of the individual's certificate, that such individual was enrolled in and pursuing a program of education during such period.

(c) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

§ 1445. Allocation of administration and of program costs

(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Veterans' Administration.

(b)(1) Except to the extent provided in paragraphs (2) and (3) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from appropriations made to the Veterans' Administration.

(2) Payments for entitlement earned under subchapter II of this chapter which is used by an individual to whom such entitlement was transferred under subchapter IV of this chapter, or which is used by the individual earning such entitlement after an election under such subchapter to transfer such entitlement which was subsequently revoked, shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(3) Payments for entitlement earned under subchapter II of this chapter that is established under section 1415(b) of this title at a rate in excess of the rate prescribed under section 1415(a) of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(c) Payments for entitlement earned under subchapter III of this chapter (whether used by the individual earning such entitlement or an individual to whom such entitlement was transferred under subchapter IV of this chapter) shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(d) Funds for the payment by the Administrator of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans' Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the Treasury. Funds for the payment by the Administrator of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

§ 1446. Reporting requirement

(a) The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

(b) The Secretary shall include in each report submitted under this section—

(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

(c) The Administrator shall include in each report submitted under this section—

(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Administrator considers appropriate.

(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than April 1, 1985.

(2) The first report by the Administrator under this section shall be submitted not later than April 1, 1987.

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

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§ 1508. Allowances

(a) * * *

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(f)(1)(A) In any case in which the Administrator determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter *30 or* 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under [chapter 34] *either chapter 30 or chapter 34* of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter *30 or* 34 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

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CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter I—Purpose; Definitions

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§ 1602. Definitions

For the purposes of this chapter—

(1)(A) The term "eligible veteran" means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, *and before October 1, 1983,* served on active duty for a period of more than 180 days commencing on or after such date, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, *and before October 1, 1983,* and was discharged or released from active duty after such date for a service-connected disability.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who has completed his or her first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(C) For the purposes of subparagraphs (A) and (B), the term "active duty" does not include any period during which an individ-

ual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(2) The terms "program of education" and "educational institution" shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title.

(3) The term "participant" is a person who is participating in the educational benefits program established under this chapter.

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Subchapter II—Eligibility; Contributions; and Matching Fund

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§ 1623. Refunds of contributions upon disenrollment

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Administrator of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Administrator and the Secretary.

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary under the authority of section 1622(c) remaining in the fund shall be refunded to the Secretary.

(e) If a participant becomes entitled to educational assistance under subchapter II of chapter 30 of this title, the participant may elect to disenroll from the program under this chapter effective on the last day of the month in which the participant becomes entitled to such assistance.

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter III—Enrollment

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§ 1673. Disapproval of enrollment in certain courses

(a) * * *

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(d)(1) Except as provided in paragraph (2) of this subsection, the Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Administrator finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter *30,* 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 percent or less, or such other percent as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

(2) Paragraph (1) of this subsection—

(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter II—Miscellaneous Provisions

§ 1781. Limitations on educational assistance

No educational assistance allowance granted under chapter *30,* 34, 35, or [36], *36 of this title or 106 or 107 of title 10,* or subsistence allowance granted under chapter 31[,] of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case

of the Public Health Service); or (2) who is attending a course of education or training paid for under chapter 41 of title 5 and whose full salary is being paid to such person while so training.

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§ 1795. Limitation on period of assistance under two or more programs

(a) The aggregate period for which any person may receive assistance under two or more of the laws listed below—

(1) parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(2) title II of the Veterans' Readjustment Assistance Act of 1952;

(3) the War Orphan's Educational Assistance Act of 1956;

(4) chapters *30,* 32, 34, 35, and 36 of this title, and the former chapter 33;

(5) chapters 106 and 107 of title 10,

may not exceed forty-eight months (or the part-time equivalent thereof).

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TITLE 10, UNITED STATES CODE

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Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

Chap. Sec.

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PART III—TRAINING

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106. Educational Assistance for [Enlisted] Members of the Selected Reserve [of the Ready Reserve] 2131

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PART II—PERSONNEL

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CHAPTER 40—LEAVE

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Sec.

707. Payment upon disapproval of certain court-martial sentences for excess leave required to be taken.

708. Educational leave of absence.

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§ 708. Educational leave of absence

(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave, of absence for a period of not to exceed two years for the purpose of permitting the member to pursue a program of education.

(b)(1) A member may not be granted a leave of absence under this section unless—

(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which he would otherwise be entitled for such period.

(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 1421 of title 38, relating to entitlement to supplemental educational assistance.

(d)(1) In time of war, or of national emergency declared by the President or the Congress after the date of the enactment of this section, the Secretary concerned may cancel any leave of absence granted under this section.

(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

(e) In this section, "eligible member" means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.

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CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

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1042. Copy of certificate of service.
1043. Preseparation counseling requirement.

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§ 1043. Preseparation counseling requirement

Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the armed forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.

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PART III—TRAINING

Chap. Sec.

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106. Educational Assistance for [Enlisted] Members of the Selected Reserve [of the Ready Reserve] 2131

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CHAPTER 101—TRAINING GENERALLY

Sec.

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2005. Advanced education assistance: active duty agreement; reimbursement requirements.
2006. Department of Defense Education Benefits Fund.

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§ 2006. Department of Defense Education Benefits Fund

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the "Fund"), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance Department of Defense education liabilities on an actuarially sound basis.

(b) In this section:

(1) "Department of Defense education liabilities" means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 106 of this title.

(2) "Normal cost", with respect to any period of time, means the total of the following:

(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 1415(b) of title 38 to persons who were not on active duty on October 1, 1983, and who during such period enter on active duty.

(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on October 1, 1983, and who during such period—

(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 1411 of such title; or

(ii) enter a period of service that will establish entitlement to such educational assistance under section 1421(b) of such title, in the case of persons eligible for basic educational assistance under section 1412 of such title.

(C) The present value of the additional future benefits payable from the Fund by reason of eligibility authorized during such period for members of the Armed Forces who were not on active duty on October 1, 1983, to transfer educational assistance entitlement to dependents under subchapter IV of chapter 30 of such title.

(D) The present value of the future benefits payable from the Fund for educational assistance under chapter 106 of this title to persons who during such period become entitled to such assistance.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund by the Secretary of Defense under subsection (g).

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(d) The Secretary of the Treasury shall transfer from the Fund to the Administrator of Veterans' Affairs such amounts as may be necessary to enable the Administrator to make required payments of Department of Defense education liabilities. The Secretary of the Treasury, the Secretary of Defense, and the Administrator shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

(e)(1)(A) There is established in the Department of Defense a Department of Defense Education Benefits Board of Actuaries (hereinafter in this section referred to as the "Board"). The Board shall consist of three members, who shall be appointed by the Secretary of

Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve for a term of fifteen years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

(ii) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and fifteen years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

(C) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

(2) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

(3) The Board shall review valuations of the Fund under subsection (g) and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

(4) The Secretary shall keep, or cause to be kept, such records as necessary for determining the actuarial status of the Fund.

(f) Not later than six months after the Board of Actuaries is first appointed, the Board shall determine the amount (hereinafter in this section referred to as the "original unfunded liability") that is the present value (as of October 1, 1983) of future benefits payable from the Fund to persons who on October 1, 1983, are on active duty (and to dependents of such persons to whom entitlement to such benefits is transferred). The Board shall determine the period of time over which this amount should be liquidated and shall determine the amortization schedule for the liquidation of such amount over such period.

(g)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or nega-

tive unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an increase or decrease in the payments that would otherwise be made to the Fund.

(5) Based on the determinations under paragraphs (2), (3), and (4) and the determinations made by the Board of actuaries under subsection (f) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense for the next fiscal year for payments to be made to the Fund under subsection (h). The President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(6) All determinations under this subsection shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(h)(1) The Secretary of Defense shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

(2) The Secretary of Defense shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

(A) The amount of the payment for that year for the amortization of the original unfunded liability, as determined by the Board of Actuaries under subsection (f).

(B) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (g)(3).

(C) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (g)(4).

(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department.

(i) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of compa-

rable maturities. The income on such investments shall be credited to and form a part of the Fund.

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[CHAPTER 106—EDUCATIONAL ASSISTANCE FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

[Sec.
[2131. Educational assistance program: establishment; amount.
[2132. Eligibility for education assistance.
[2133. Termination of assistance; refund by member.
[2134. Reports to Congress.
[2135. Termination of program.

[§ 2131. Educational assistance program: establishment; amount

[(a) To encourage enlistments in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, may establish and maintain a program to provide educational assistance to enlist members of the Selected Reserve of the Ready Reserve of the armed forces under his jurisdiction.

[(b)(1) An educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned of 100 percent of the educational expenses incurred by a member for instruction at an accredited institution. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or shop instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

[(2) To receive assistance under this section, a member must be eligible for such assistance under section 2132 of this title and must submit an application for such assistance in such form and manner as the Secretary concerned shall prescribe and be approved for such assistance by the Secretary concerned.

[(c) Educational assistance may be provided to a member under this section until the member completes a course of instruction required for the award of a baccalaureate degree, or the equivalent evidence of completion of study, by an accredited institution, but the amount of educational assistance provided a member under this section may not exceed $1,000 in any twelve-month period, nor a total of $4,000.

[(d) For purposes of this section, the term "accredited institution" means a civilian college, university, or trade, technical, or vocational school in the United States (including the District of Columbia, Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

[§ 2132. Eligibility for educational assistance

[(a) To be eligible for educational assistance under section 2131 of this title, a member must not be serving on active duty for more than thirty days and must—

[(1) be an enlisted member of the Selected Reserve of the Ready Reserve of an armed force;

[(2) have initially enlisted as a Reserve for service in a unit of the Selected Reserve of a reserve component after September 30, 1977;

[(3) never have served in an armed force before such enlistment;

[(4) at the time of such enlistment have executed an agreement as prescribed by subsection (b);

[(5) be a graduate from secondary school;

[(6) have completed the initial period of active duty for training required of such member;

[(7) if the member is assigned to a unit, be participating satisfactorily in training with such unit; and

[(8) have served less than eight years as a Reserve.

[(b)(1) An agreement referred to in subsection (a)(4) shall be in writing and shall provide that if the member accepts educational assistance under section 2131 of this title, the period of enlistment of such member shall be not less than six years and if the member is discharged for the purpose of accepting an appointment as an officer, the member shall remain a member of the Ready Reserve until the last day of the term of such enlistment.

[(2) A member who enlists after September 30, 1977, but before regulations to carry out this chapter are promulgated shall be eligible for educational assistance under section 2131 of this title if he is otherwise eligible for such assistance under subsection (a) and if he executes an agreement as described in paragraph (1) not later than one year after the date on which regulations to carry out this chapter are first promulgated.

[(c) Educational assistance being provided a member under section 2131 of this title may be continued to a member who otherwise continues to qualify for such assistance if such member—

[(1) is discharged in order to accept an immediate appointment as an officer in the Ready Reserve; or

[(2) is no longer a member of the Selected Reserve, if such member is a member of the Ready Reserve and has served at least six years in the Selected Reserve of the Ready Reserve.

[§ 2133. Termination of assistance; refund by member

[(a) Educational assistance being provided a member under section 2131 of this title shall be terminated if—

[(1) the member fails to participate satisfactorily in training with his unit, if he is a member of a unit;

[(2) the member is separated from his armed force, unless he is separated in order to accept an immediate appointment as an officer in the Ready Reserve;

[(3) the member completes eight years of service; or

[(4) the member receives financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps.

[(b)(1) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, during a term of enlistment for which the member entered into an agreement under section 2132(a)(4) of this title shall refund an amount computed under paragraph (2) unless the failure to participate in training was due to reasons beyond the control of the member. Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve.

[(2) The amount of any refund under paragraph (1) shall be the amount equal to the product of—

[(A) the number of months of obligated service remaining during that term of enlistment divided by the total number of months of obligated service of that term of enlistment; and

[(B) the total amount of educational assistance provided to the member under section 2131 of this title.

[§ 2134. Reports to Congress

[The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve receiving educational assistance under this chapter at the time of such report and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be submitted not later than December 31, 1977.

[§ 2135. Termination of program

[No educational assistance may be provided under this chapter to any person enlisting as a Reserve after September 30, 1985.]

CHAPTER 106—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Sec.
2131. Educational assistance program: establishment; amount.
2132. Eligibility for educational assistance.
2133. Time limitation for use of entitlement.
2134. Termination of assistance.
2135. Failure to participate satisfactorily; penalties.
2136. Administration of program.
2137. Reports to Congress.
2138. Savings provision.

§ 2131. Educational assistance program: establishment; amount

(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the Armed Forces under his jurisdiction who agree to remain members of the Selected Reserve for a period of not less than six years.

(b) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person entitled to educational assistance under this chapter who is pursuing a program of education and educational assistance allowance at the following rates:

(1) $140 per month for each month of full-time pursuit of a program of education;

(2) $105 per month for each month of three-quarter-time pursuit of a program of education; and

(3) $70 per month for each month of half-time pursuit of a program of education.

(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.

(2) Subject to section 1795 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36.

§ 2132. Eligibility for educational assistance

(a) A person who—

(1) after September 30, 1983—

(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

(2) before completing initial active duty for training has received a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 2131 of this title.

(b) Educational assistance may not be provided to a member under this chapter until the member—

(1) has completed the initial period of active duty for training required of the member; and

(2) has completed one hundred eighty days of service in the Selected Reserve.

(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this chapter and stating clearly and prominently the substance of sections 2134 and 2135 of this title as such sections may apply to the person.

§ 2133. Time limitation for use of entitlement

(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this section may use such person's entitlement expires (1) at the end of the ten-year period beginning on the date on which such person becomes entitled to

such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

(b)(1) The provisions of section 1441(f) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

(2) The provisions of section 1441(e) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

§ 2134. Termination of assistance

Educational assistance may not be provided under this chapter—

(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

§ 2135. Failure to participate satisfactorily; penalties

(a)(1) A member of the Selected Reserve of the Ready Reserve of an armed force who fails to participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter shall, at the option of the Secretary concerned—

(A) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 2132 of this title, whichever is less; or

(B) be required to refund to the United States an amount determined under subsection (b).

(2) The Secretary concerned may waive the requirements of paragraph (1), or may reduce the amount of any refund under clause (B) of such paragraph, in the case of any individual member when the Secretary determines that the failure to participate satisfactorily was due to reasons beyond the control of the member.

(3) Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve in the Selected Reserve.

(b)(1) The amount of a refund under subsection (a) shall be the amount equal to the product of—

(A) the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and

(B) the total amount of educational assistance provided to the member under this chapter,

as increased by interest determined under paragraph (2).

(2) The amount computed under paragraph (1) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the refund is determined to be due for securities having maturities of ninety days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a refund under this section.

§ 2136. Administration of program

(a) Educational assistance under this chapter shall be provided through the Veterans' Administration, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Transportation, with the Administrator of Veterans' Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Veterans' Administration for the making of payments under this chapter.

(b) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran", as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

§ 2137. Reports to Congress

The Secretary of Defense shall submit to the Congress a report not later than December 15 of each year concerning the operation of the educational assistance program established by this chapter during the preceding fiscal year. Each such report shall include the number of members of the Selected Reserve of the Ready Reserve of each armed force receiving, and the number entitled to receive, educational assistance under this chapter during the preceding fiscal year.

§ 2138. Savings provision

A member who entered into an agreement under this chapter before October 1, 1983, shall continue to be eligible for educational assistance in accordance with the terms of such agreement and of this chapter as in effect before such date.

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